

**CONTRACT BETWEEN THE COUNTY OF SANTA CLARA AND
CITY OF MILPITAS
SENIOR NUTRITION PROGRAM – CONGREGATE MEALS**

***30A**

1. This County of Santa Clara Contract is between the COUNTY and City of Milpitas (henceforth, CONTRACTOR).
2. The parties agree to comply with the General Terms and Conditions contained in Articles I-V of this Contract and provisions contained in Exhibit A: Program Provisions, Exhibit B: Program Plan and Requirements, and Exhibit C: Budget Summary which are attached hereto and incorporated herein by this reference and made a part of this Contract.

IN WITNESS WHEREOF, COUNTY and CONTRACTOR hereby agree to the terms of this Contract.

COUNTY OF SANTA CLARA

CONTRACTOR

Robert Menicocci, Director
Social Services Agency
Date: _____

Thomas Williams, City Manager
City of Milpitas
Date: _____

John P. Mills
Deputy County Executive
Date: _____

APPROVED AS TO FORM AND LEGALITY

Michaela Lozano Lewis
Deputy County Counsel
Date: _____

Contract General Terms and Conditions

Article I General Terms

1. TOTALITY OF CONTRACT

This Contract and its Appendices and Exhibits (if any) constitutes the final, complete, and exclusive statement of the terms and conditions agreed upon by the parties. It incorporates and supercedes all the agreements, covenants and understandings between the parties concerning the subject matter hereof, and all such agreements, covenants, and understandings have been merged into this Contract. No prior or contemporaneous agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract.

2. AMENDMENTS

This Contract may only be amended by a written instruction signed by the parties.

3. CONFLICTS OF INTEREST

- a. CONTRACTOR shall comply, and require its subcontractors to comply, with all applicable (i) requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code section 1090 et. seq., the California Political Reform Act (California Government Code section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 et. seq.). Failure to do so constitutes a material breach of this Contract and is grounds for immediate termination of this Contract by the COUNTY.
- b. In accepting this Contract, CONTRACTOR covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Contract. CONTRACTOR further covenants that, in the performance of this Contract, it will not employ any CONTRACTOR or person having such an interest. CONTRACTOR, including but not limited to CONTRACTOR's employees and subcontractors, may be subject to the disclosure and disqualification provisions of the California Political Reform Act of 1974 (the "Act"), that (1) requires such persons to disclose economic interests that may foreseeably be materially affected by the work performed under this Contract, and (2) prohibits such persons from making or participating in making decisions that will foreseeably financially affect such interests.
- c. If the disclosure provisions of the Political Reform Act are applicable to any individual providing service under this Contract, CONTRACTOR shall, upon execution of this Contract, provide the COUNTY with the names, description of individual duties to be performed, and email addresses of all individuals, including but not limited to CONTRACTOR's employees, agents and subcontractors, that could be substantively involved in "making a governmental

- decision” or “serving in a staff capacity and in that capacity participating in making governmental decisions or performing duties that would be performed by an individual in a designated position,” (2 CCR 18701(a)(2)), as part of CONTRACTOR’s service to the COUNTY under this Contract. CONTRACTOR shall immediately notify the COUNTY of the names and email addresses of any additional individuals later assigned to provide such service to the COUNTY under this Contract in such a capacity. CONTRACTOR shall immediately notify the COUNTY of the names of individuals working in such a capacity who, during the course of the Contract, end their service to the COUNTY.
- d. If the disclosure provisions of the Political Reform Act are applicable to any individual providing service under this Contract, CONTRACTOR shall ensure that all such individuals identified pursuant to this section understand that they are subject to the Act and shall conform to all requirements of the Act and other laws and regulations listed in subsection (A) including, as required, filing of Statements of Economic Interests within 30 days of commencing service pursuant to this Contract, annually by April 1, and within 30 days of their termination of service pursuant to this Contract.

4. APPLICABLE LAWS AND VENUE

This Contract has been executed and delivered in, and shall be construed and enforced in accordance with, the laws of the State of California. In the event that suit is brought by either party, the parties agree that trial of such action shall be exclusively vested in a state court in the County of Santa Clara or, if federal jurisdiction is appropriate, in the United States District Court for the Northern District of California, San Jose, California.

5. SUBCONTRACTING AND ASSIGNABILITY

This Contract cannot be subcontracted or assigned without prior written approval of COUNTY. In the event of such approval, any sub-contract or assignment is subject to the same provisions for providing service as the Contract between COUNTY and CONTRACTOR. CONTRACTOR must monitor, evaluate, and account for the sub-CONTRACTOR(s) services and operations. Any assignment of this Contract or sub-contract entered into in violation of this provision by CONTRACTOR is void and CONTRACTOR will be held legally responsible.

6. WAIVER

No delay or failure to require performance of any term of this Contract shall constitute waiver of that term as to that or any other instance. Any waiver granted by a party shall be in writing and shall apply to the specific instance expressly stated.

7. INDEPENDENT CONTRACTOR STATUS

CONTRACTOR will perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of COUNTY. None of the provisions of this Contract is intended to create, nor will be deemed or construed to create, any relationship between the parties other than that of independent parties contracting with each other for purpose of effecting the provisions of this Contract. The parties are not, and will not be construed to be in a relationship of joint venture, partnership, or employer-employee. Neither party has

the authority to make any Statements, representations, or commitments of any kind on behalf of the other party, or to use the name of the other party in any publications or advertisements, except with the written consent of the other party or as is explicitly provided herein. CONTRACTOR is solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any.

8. SEVERABILITY OF PROVISIONS

If any provision(s) or term(s) of this Contract are held invalid, the remainder of this Contract remains in force.

Article II
Fiscal Accountability and Requirements

1. AVAILABILITY AND SUBSTITUTION OF FUNDS

- a. Notwithstanding any provision herein, this Contract is valid and enforceable only if sufficient funds are available. In the event of reduction, suspension, discontinuance, or other unavailability of funds, COUNTY unilaterally may take appropriate actions including, but not limited to, reducing existing service authorization, immediate termination of the Contract, or reducing the maximum dollar amount of this Contract with no liability occurring to the COUNTY.
- b. The COUNTY may substitute State or Federal funds for funds appropriated by the Board of Supervisors for payments to be made pursuant to this Contract. CONTRACTOR will then be bound by the requirements of any State or Federal grant contracts, statutes, regulations, guidelines, or directives associated with the funds, including but not limited to the OMB's Uniform Guidance.

2. COMPENSATION TO CONTRACTOR

Compensation method shall be cost reimbursement.

3. DISALLOWED COSTS

- a. CONTRACTOR is liable for any funds expended that are not in accordance with this Contract, including, but not limited to, disallowed costs, violation, and/or default of Contract. CONTRACTOR will repay COUNTY disallowed costs, violation and/or default amounts within ninety (90) days of discovery of these costs. This provision survives the termination of this Contract.
- b. If funding under this Contract are from Federal sources, such funds may not be used by CONTRACTOR, either directly or indirectly, as a contribution for the purpose of obtaining any Federal funds under any Federal programs. An indirect use of such funds to match Federal funds is defined as: "the allocation by CONTRACTOR of funds received under this Contract to a non-matching expenditure, thereby releasing or displacing other of its funds for the purpose of matching Federal funds."

4. FINANCIAL RECORDS

- a. CONTRACTOR will establish and maintain a system of financial controls and accounting in conformance with Generally Accepted Accounting Principles (GAAP).
- b. CONTRACTOR must maintain accurate and complete financial records of all costs and operating expenses in connection with this Contract including, but not limited to subcontracts, invoices, timecards, cash receipts, vouchers, canceled

checks, bank Statements, and other official documentation indicating in proper detail the nature and propriety of all costs incurred, and reimbursed by COUNTY.

- c. The financial records must show that funds received under this Contract are used for purposes consistent with the terms of this Contract.

Article III

Reporting, Records, Audit, Evaluations, and Termination

1. INSPECTION AND AUDIT

- a. All records, books, reports, and documentation maintained by CONTRACTOR pursuant to this Contract, or related to the CONTRACTOR's activities and expenditures under this Contract, will be open for inspection and audit by Federal, State, and County officials, or their agents, upon demand at reasonable times, subject to any limitations allowed for pursuant to the California Public Records Act. Such records must be kept in the State of California for the retention period specified in this Contract. This provision survives the termination of this contract.
- b. CONTRACTOR will provide the Federal, State, or County officials, or their agents' reasonable access, through representatives of CONTRACTOR, to facilities, records (subject to any limitations allowed for pursuant to the California Public Records Act), clients, and employees that are used in conjunction with the provision of contract services, except where prohibited by Federal or State laws, regulations or rules.
- c. CONTRACTOR must submit to COUNTY audited financial reports conducted by an independent certified public accountant no later than six (6) months after the end of the last month of the contract term, indicating that reported costs are actual, reasonable, necessary, allowable, and computed in accordance with GAAP and provisions stipulated in this Contract. In addition, the CONTRACTOR must submit any management letters or management advisory letters that apply to the CONTRACTOR's agency audit. COUNTY has the discretion to only require an audit report every two (2) years.
- d. COUNTY may elect to accept an audit report in accordance with GAAP conducted to meet compliance requirements of other funding entities in the event all of the above provisions are met.

2. REPORTING REQUIREMENTS

- a. CONTRACTOR must maintain complete and accurate records of its operation, including any and all records required by COUNTY relating to matters covered by this Contract, including, but not limited to, financial records, supporting documents, client statistical records, personnel and all other pertinent records. COUNTY may receive copies of any and all such records upon request subject to any limitations allowed for pursuant to the California Public Records Act.
- b. CONTRACTOR must submit to COUNTY a compensation claim on forms approved by COUNTY Social Services Agency, as outlined in Article II.
- c. CONTRACTOR must assist COUNTY in meeting COUNTY's reporting requirements to the State and other agencies with respect to CONTRACTOR's

work hereunder. This cooperation includes assisting COUNTY to prepare evaluations required by the State or Federal governments regarding services provided by CONTRACTOR under this Contract. CONTRACTOR must submit to COUNTY any and all reports that may be required by COUNTY concerning CONTRACTOR's performance under this Contract.

- d. Upon COUNTY's request, CONTRACTOR must provide COUNTY evidence of CONTRACTOR's capacity to perform under this Contract, its compliance with applicable statutes and regulations, and its compliance with the terms and conditions of this Contract.
- e. All records, books, reports and documentation must be retained as required by applicable record retention laws and regulations. At the very least, CONTRACTOR must retain records, books records, and documentation for three (3) years after termination of this Contract; or until all Federal, State and County audits are completed; or until all disputes, litigation, or claims are resolved; whichever is later. This provision survives the termination of this contract.
- f. CONTRACTOR must within 30 calendar days advise the COUNTY of 1) the issuance of any legal complaint by an enforcement agency, or any enforcement proceedings by any Federal, State or local agency for alleged violations of Federal, State or local rules, regulations or laws; 2) the issuance of citations, court findings or administrative findings for violations of applicable Federal, State or local rules, regulations or laws; and/or 3) any investigation by any law enforcement agency into the CONTRACTOR, its employees, agents or subcontractors that relates to this Contract or any other contract with COUNTY.
- g. CONTRACTOR guarantees that it, its employees, contractors, subcontractors or agents are not suspended or debarred from receiving Federal Funding as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the Federal General Services Administration (<https://www.epls.gov/>). CONTRACTOR also guarantees that it has not, within a three-year period preceding this Contract, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property. CONTRACTOR additionally guarantees it is not presently indicted for or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses listed in the prior sentence. Finally, CONTRACTOR guarantees that it has not, within a three-year period preceding this Contract, had one or more public transactions terminated for cause or for default. CONTRACTOR must report immediately to the COUNTY in writing any incidents of alleged fraud and/or abuse by CONTRACTOR. CONTRACTOR shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by the COUNTY. CONTRACTOR agrees to timely execute any and all Amendments to this Contract or other required documentation relating to their debarment or suspension status.

3. RESPONSIBILITY FOR AUDIT EXCEPTIONS

CONTRACTOR accepts responsibility for receiving, replying to, and complying with any audit exceptions by appropriate Federal, State, or County, audit agencies.

4. MONITORING AND EVALUATION

- a. COUNTY's Social Services Agency will monitor the work performed and financial operations conducted under this Contract to determine whether CONTRACTOR's operation conforms to County policy, Federal and State statutes and regulations, and to the terms of this Contract.
- b. COUNTY may conduct participant interviews to determine program compliance.
- c. CONTRACTOR agrees to participate in and cooperate with studies and surveys COUNTY deems necessary to meet its monitoring and evaluation responsibility.
- d. CONTRACTOR must furnish all data, Statements, records, information, and reports necessary for COUNTY to monitor, review, and evaluate the performance of the program and its components. Performance evaluations will examine the following five factors: 1) fiscal accountability; 2) completion of work within a given time frame; 3) ability and effort to meet the performance criteria; 4) quality of services; and 5) a recommendation for future contracting with the contractor.
- e. If, in the course of monitoring and evaluation, COUNTY discovers any practice, procedure or policy of CONTRACTOR that deviates from the terms of this Contract; that violates State or Federal statutes or regulations; that threatens the success of the program carried on pursuant to this Contract, or that jeopardizes the fiscal integrity of said program, COUNTY may impose reasonable funding restrictions upon notice specifying the nature of the restrictions(s), reasons for imposition, the corrective action that must be taken before they will be removed, time allowed for completing the corrective action, and method of requesting reconsideration.
- f. CONTRACTOR must respond in writing to any discrepancies, violations, or deficiencies identified by COUNTY within ten (10) days.

5. CORRECTIVE ACTION PROCEDURE

- a. Upon receipt by COUNTY of information regarding a failure by CONTRACTOR to comply with any provision of this Contract, COUNTY has the right to forward to CONTRACTOR a notice of COUNTY's intent to consider corrective action to enforce compliance with such provision. Such notice will indicate the nature of the issue, or issues, to be reviewed in determining the need for corrective action. CONTRACTOR may have the opportunity to respond or participate in formulating the corrective action recommendation. COUNTY has the right to require the presence of CONTRACTOR's officer(s) or employee(s) at any hearing or meeting called for the purpose of considering corrective action.
- b. After issuing such notice, and after considering CONTRACTOR's response, if any, COUNTY may forward to CONTRACTOR a set of specific corrective actions recommended and a timetable for implementing the specified corrective actions recommended. Following implementation of the corrective actions, CONTRACTOR will forward to COUNTY, within the time specified by COUNTY, any verification required by COUNTY regarding the corrective actions.
- c. In the event CONTRACTOR does not implement the corrective actions

recommended in accordance with the corrective actions timetable, COUNTY may suspend payments hereunder or immediately terminate this Contract without further notice to CONTRACTOR.

6. TERMINATION

a. Termination for Convenience

COUNTY and/or CONTRACTOR may request a termination of convenience (without cause) by notifying the other party in writing 30 days prior to the effective date of termination.

b. Termination for Cause

COUNTY may, at any time, elect to suspend or terminate this Contract or withhold payments to CONTRACTOR, in whole or in part, for cause, by giving written notice specifying the effective date and scope of such termination. Cause includes, but is not limited to the following:

- i. CONTRACTOR failure to comply with any contract provision;
- ii. CONTRACTOR fails to meet the performance criteria of this Contract or any other contract with COUNTY;
- iii. COUNTY deems CONTRACTOR's performance of this Contract or any other contract with COUNTY unsatisfactory;
- iv. Litigation or an investigation is pending with respect to the CONTRACTOR's performance under this Contract or any other contract with COUNTY;
- v. CONTRACTOR is the subject of a voluntary or involuntary proceeding under the Bankruptcy Act;
- vi. CONTRACTOR submits to COUNTY any reports that are incorrect or incomplete in any material respect, or fails to file timely reports; or,
- vii. CONTRACTOR is suspended or debarred from receiving Federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration.

c. Terminations

In the event of any termination, all finished or unfinished documents, data, studies, reports, and materials (Materials) prepared by the CONTRACTOR under this Contract becomes the property of the COUNTY and will be promptly delivered to the COUNTY. Upon termination, the CONTRACTOR may make and retain a copy of such Materials. CONTRACTOR may be compensated based on the completion of services provided, as solely and reasonably determined by COUNTY.

7. NON-EXCLUSIVE REMEDIES

The remedies listed in this Contract are non-exclusive, and COUNTY retains all other rights and remedies it may have under general law, including the right to terminate the Contract immediately without advance notice if CONTRACTOR becomes unable to perform its obligations under this Contract.

**Article IV
Statutes, Regulations, and Policies**

1. COMPLIANCE WITH STATUTES AND REGULATIONS

- a. CONTRACTOR will comply with all Federal, State and local statutes, laws, rules, regulations, codes, and ordinances, (Laws) effective at the inception of the

Contract and that become effective during the Term of this Contract relating to its performance under this Contract. To the extent that Laws are in conflict with provisions of this Contract, the Laws prevail. CONTRACTOR will also provide services under the Contract in accordance with the resolutions, policies, procedures, directives and guidelines issued by the COUNTY Board of Supervisors or the Social Services Agency.

- b. CONTRACTOR will comply with all applicable subsequent amended or added Federal, State, and local Laws and execute amendments necessary to implement such Laws.
- c. CONTRACTOR recognizes the mandatory standards and policies relating to energy efficiency in the State energy conservation plan (Title 24, California Administrative Code).
- d. For Contracts over \$100,000 CONTRACTOR will comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S. Code 1857 (h)), Section 508 of the Clean Water Act (33 U.S. Code 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- e. CONTRACTOR must establish procedures assuring that any person's complaints and grievances against CONTRACTOR regarding the delivery of services under this Contract are promptly addressed and fairly resolved.

2. NONDISCRIMINATION OF EMPLOYMENT

- a. CONTRACTOR shall comply with all applicable Federal, State, and local laws and regulations including Santa Clara County's policies concerning nondiscrimination and equal opportunity in contracting. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (Sections 503 and 504); California Fair Employment and Housing Act (Government Code sections 12900 et seq.); and California Labor Code sections 1101 and 1102.
- b. For Contracts over \$10,000 CONTRACTOR agrees to comply with Executive Order 11246, entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFP Part 60).
- c. During the performance of this Contract, CONTRACTOR and its SUBCONTRACTORS must not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of:
 - i. Age (40 and above),
 - ii. Ancestry,
 - iii. Color,
 - iv. Disability (Mental and Physical) including HIV and AIDS,
 - v. Ethnic Group Identification,
 - vi. Family and Medical Care Leave,
 - vii. Marital Status,
 - viii. Medical Condition (cancer/genetic characteristics),
 - ix. National Origin,
 - x. Pregnancy Disability Leave,

- xi. Political Belief,
 - xii. Race,
 - xiii. Reasonable Accommodation,
 - xiv. Religious Creed,
 - xv. Sex/Gender, or
 - xvi. Sexual Orientation.
- d. CONTRACTOR and SUBCONTRACTORS ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
 - e. CONTRACTOR and SUBCONTRACTORS comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 *et seq.*) and the applicable regulation promulgated hereunder (California Code Regulations, Title 2, Section 7285.0 *et seq.*). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a) - (f), are incorporated into this Contract by reference and made a part hereof as if set forth in full (California code Regulations, Title 2, Section 7285.0 *et seq.*).
 - f. CONTRACTOR and its SUBCONTRACTORS will give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
 - g. CONTRACTOR must include the non-discrimination and compliance provisions of this clause in all SUBCONTRACTS to perform work under this Contract.

3. **NONDISCRIMINATION OF SERVICES**

- a. CONTRACTOR ensures that services provided under this Contract are nondiscriminatory and that no person is denied services or subjected to discrimination under any program or activity because of:
 - i. Age (40 and above),
 - ii. Ancestry,
 - iii. Color,
 - iv. Disability (Mental and Physical) including HIV and AIDS,
 - v. Ethnic Group Identification,
 - vi. Marital Status,
 - vii. Medical Condition (cancer/genetic characteristics),
 - viii. National Origin,
 - ix. Political Belief,
 - x. Race,
 - xi. Reasonable Accommodation,
 - xii. Religious Creed,
 - xiii. Sex/Gender, or
 - xiv. Sexual Orientation.
- b. CONTRACTOR may exclude an individual or group when the services of a program are restricted to a specific class of individuals or group and included as a provision of this Contract.
- c. CONTRACTOR ensures that its appropriate personnel involved in providing services are educated regarding AIDS and HIV infection.

4. COUNTY DATA & CONFIDENTIALITY

- a. "County Data" shall mean data and information received by CONTRACTOR from the COUNTY. As between CONTRACTOR and COUNTY, all County Data shall remain the property of the COUNTY. CONTRACTOR shall not acquire any ownership interest in the County Data. CONTRACTOR shall not, without the COUNTY's written permission consent, use or disclose the County Data other than in performance of its obligations under this Contract, and other than to the extent required to do so to comply with the California Public Records Act or any court order or legal subpoena. CONTRACTOR shall be responsible for establishing and maintaining an information security program that is designed to ensure the security and confidentiality of County Data; protect against any anticipated threats or hazards to the security or integrity of County Data, protect against unauthorized access to or use of County Data that could result in substantial harm or inconvenience to the COUNTY or any end user; and ensure the proper disposal of County Data upon termination of this Contract. CONTRACTOR shall take appropriate action to address any incident or unauthorized access to County Data, including addressing and/or remedying the issues that result in such unauthorized access, notifying the COUNTY as soon as possible of any incident of unauthorized access to County Data, or any other breach in CONTRACTOR's security that materially affects the COUNTY or end users; and be responsible for ensuring compliance its officers, employees, agents, and subcontractors with the confidentiality provisions herefor. Should confidential and/or legally protected County Data be divulged to unauthorized third parties, CONTRACTOR shall comply with all applicable federal and state laws and regulations, including but not limited to California Civil Code Sections 1798.29 and 1798.82 at CONTRACTOR's sole expense (if applicable). CONTRACTOR shall not charge the COUNTY for any expense associated with CONTRACTOR's compliance with the obligations set forth in this section.
- b. CONTRACTOR must require its employees and all persons performing services at its direction to comply with all applicable privacy laws and regulations, including but not limited to the provisions of Sections 827 and 10850 *et seq.* of the Welfare and Institutions Code (WIC) and California Department of Social Services (CDSS) Manual of Policies and Procedures, Division 19 Regulations.
- c. Upon the disclosure of confidential information, inadvertent or otherwise, the COUNTY may terminate this contract immediately and take legal action against CONTRACTOR. Any person who knowingly and intentionally violates the provisions Stated above is guilty of a misdemeanor and the COUNTY intends to prosecute such violators to the full extent of the law.
- d. CONTRACTOR will inform all employees, agents, officers, and all persons performing services at its direction of the above provisions. All provisions of Article IV, Section 4 survive the termination of this Contract.

5. ASSIGNMENT OF CLAYTON ACT, CARTWRIGHT ACT CLAIMS

CONTRACTOR assigns to the COUNTY all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the CONTRACTOR for sale to the COUNTY pursuant to this Contract.

6. COUNTY NO-SMOKING POLICY

CONTRACTOR and its employees, agents and subcontractors, shall comply with the COUNTY's No-Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all COUNTY-owned and operated health facilities, (2) within 30 feet surrounding COUNTY-owned buildings and leased buildings where the COUNTY is the sole occupant, and (3) in all COUNTY vehicles.

7. FOOD AND BEVERAGE STANDARDS

- a. Except in the event of an emergency or medical necessity, the following nutritional standards shall apply to any foods and/or beverages purchased by CONTRACTOR with COUNTY funds for COUNTY-sponsored meetings or events.
- b. If food is to be provided, healthier food options must be offered. "Healthier food options" include (1) fruits, vegetables, whole grains, and low fat and low calorie foods; (2) minimally processed foods without added sugar and with low sodium; (3) foods prepared using healthy cooking techniques; and (4) foods with less than 0.5 grams of trans fat per serving. Whenever possible, CONTRACTOR shall (1) offer seasonal and local produce; (2) serve fruit instead of sugary, high calorie desserts; (3) attempt to accommodate special, dietary and cultural needs; and (4) post nutritional information and/or a list of ingredients for items served. If meals are to be provided, a vegetarian option shall be provided, and the CONTRACTOR should consider providing a vegan option. If pre-packaged snack foods are provided, the items shall contain: (1) no more than 35% of calories from fat, unless the snack food items consist solely of nuts or seeds; (2) no more than 10% of calories from saturated fat; (3) zero trans-fat; (4) no more than 35% of total weight from sugar and caloric sweeteners, except for fruits and vegetables with no added sweeteners or fats; and (5) no more than 360 mg of sodium per serving.
- c. If beverages are to be provided, beverages that meet the COUNTY's nutritional criteria are (1) water with no caloric sweeteners; (2) unsweetened coffee or tea, provided that sugar and sugar substitutes may be provided as condiments; (3) unsweetened, unflavored, reduced fat (either nonfat or 1% low fat) dairy milk; (4) plant-derived milk (e.g., soy milk, rice milk, and almond milk) with no more than 130 calories per 8 ounce serving; (5) 100% fruit or vegetable juice (limited to a maximum of 8 ounces per container); and (6) other low-calorie beverages (including tea and/or diet soda) that do not exceed 40 calories per 8 ounce serving. Sugar-sweetened beverages shall not be provided.

8. CONTRACTING PRINCIPLES

CONTRACTOR agrees to comply with the COUNTY's Contracting Principles set forth in the Board Policy Manual. The Contracting Principles require, among other things, that CONTRACTOR be a fiscally responsible entity and treat its employees fairly. CONTRACTOR is also required to (1) comply with all applicable federal, state and local rules, regulations and laws; (2) maintain financial records, and make those records available upon request, subject to any limitations provided for in the California Public Records Act; (3) provide to the COUNTY copies of any financial

audits that have been completed during the term of the contract; and (4) upon the COUNTY's request, provide the COUNTY reasonable access, through representatives of the CONTRACTOR, to facilities, financial and employee records that are related to the purpose of the contract, except where prohibited by federal or state laws, regulations or rules, and any exemptions under the California Public Records Act.

9. THIRD PARTY BENEFICIARIES

This Contract does not, and is not intended to, confer any rights or remedies upon any person or entity other than the parties.

10. MAINTENANCE OF SOFTWARE

If CONTRACTOR is provided with "remote access", defined as the act of connecting to a COUNTY attached information technology system from a non-county attached system through a public network, CONTRACTOR will maintain and use its non-county system, hardware, and software in compliance with COUNTY standards and policies set by the COUNTY Information Services Department.

11. CONTRACT EXECUTION

Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term "electronically signed contract" means a contract that is executed by applying an electronic signature using technology approved by the COUNTY.

12. WAGE THEFT PREVENTION

a. Compliance with Wage and Hour Laws:

CONTRACTOR, and any Subcontractor(s) it employs to complete work under this Agreement, must comply with all applicable federal, state, and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and any local Minimum Wage Ordinance or Living Wage Ordinance.

b. Final Judgments, Decisions, and Orders:

For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted. Relevant investigatory government agencies include: the federal Department of Labor, the California Division of Labor Standards Enforcement, a local enforcement agency, or any other government entity tasked with the investigation and enforcement of wage and hour laws.

c. Prior Judgements against CONTRACTOR and/or its Subcontractor(s):

By signing this Agreement, CONTRACTOR affirms that it has disclosed any final judgments, decisions, or orders from a court or investigatory government agency finding – in the five (5) years prior to executing this Agreement – that CONTRACTOR or its Subcontractor(s) has violated any applicable wage and hour laws. CONTRACTOR further affirms that it or its Subcontractor(s) has satisfied and complied with – or has reached agreement with the COUNTY

regarding the manner in which it will satisfy – any such judgments, decisions, or orders.

d. Judgements During Term of Contract:

If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision, or order finding that CONTRACTOR or any Subcontractor(s) it employs to perform work under this Agreement has violated any applicable wage and hour law, or CONTRACTOR learns of such judgment, decision, or order that was not previously disclosed, CONTRACTOR must inform the Office of the County Executive – Office of Countywide Contracting Management (OCCM), no more than fifteen (15) days after the judgment, decision, or order becomes final or of learning of the final judgment, decision, or order. CONTRACTOR and its Subcontractor(s) shall promptly satisfy and comply with any such judgment, decision, or order, and shall provide the Office of the County Executive – OCCM with documentary evidence of compliance with the final judgment, decision, or order within five (5) days of satisfying the final judgment, decision, or order. The COUNTY reserves the right to require CONTRACTOR to enter into an Agreement with the COUNTY regarding the manner in which any such final judgment, decision, or order will be satisfied.

e. County's Right to Withhold Payment:

Where CONTRACTOR or any Subcontractor(s) it employs to perform work under this Agreement has been found in violation of any applicable wage and hour law by a final judgment, decision, or order of a court or government agency, the COUNTY reserves the right to withhold payment to CONTRACTOR until such judgment, decision, or order has been satisfied in full.

f. Material Breach:

Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for termination of this Agreement and/or any other remedies available under this Agreement and/or law.

g. Notice to County Related to Wage Theft Prevention:

Notice provided to the Office of the County Executive – Office of Countywide Contracting Management (OCCM) as required under this Section shall be addressed to:

Office of the County Executive – OCCM
70 West Hedding Street
East Wing – 11th Floor
San Jose, CA 95110

The Notice provisions of this Section are separate from any other notice provisions in this Agreement, and accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

13. LIVING WAGE (If Applicable)

Unless otherwise exempted or prohibited by law or County policy, where applicable, CONTRACTOR(s) that contract with the County to provide Direct Services developed pursuant to a formal Request for Proposals process, as defined in the County of Santa Clara Ordinance Code Division B36 ("Division B36") and Board Policy Section 5.5.5.5 ("Living Wage Policy"), and their Subcontractor(s), where the

contract value is \$100,000.00 or more ("Direct Services Contract"), must comply with Division B36 and the Living Wage Policy and compensate their employees in accordance with Division B36 and the Living Wage Policy. Compliance and compensation for purposes of this provision includes, but is not limited to, components relating to fair compensation, earned sick leave, paid jury duty, fair workweek, worker retention, fair chance hiring, targeted hiring, local hiring, protection from retaliation, and labor peace. If CONTRACTOR and/or Subcontractor(s) violate this provision, the Board of Supervisors or its designee may, at its sole discretion, take responsive actions including, but not limited, to the following:

- a. Suspend, modify, or terminate the Direct Services Contract.
- b. Require CONTRACTOR and/or Subcontractor(s) to comply with an appropriate remediation plan developed by the COUNTY.
- c. Waive all or part of Division B36 or the Living Wage Policy.

This provision shall not be construed to limit an employee's right to bring any legal action for violation of the employee's rights under Division B36 or any other applicable law. Further, this provision does not confer any rights upon any person or entity other than the Board of Supervisors or its designee to bring any action seeking the cancellation or suspension of a COUNTY contract. By entering into this Agreement, CONTRACTOR certifies that it is currently complying with Division B36 and the Living Wage Policy with respect to applicable contracts and warrants that it will continue to comply with Division B36 and the Living Wage Policy with respect to applicable contracts.

14. CALIFORNIA PUBLIC RECORDS ACT

All proposals become the property of the COUNTY, which is a public agency subject to the disclosure requirements of the California public Records Act (CPRA). If CONTRACTOR's proprietary information is contained in documents submitted to the COUNTY, and CONTRACTOR claims that such information falls within one or more CPRA exemption, CONTRACTOR shall clearly mark such information as "CONFIDENTIAL AND PROPRIETARY," and identify the specific lines containing the information. In the event of a request for such information, the COUNTY will make best efforts to provide notice to CONTRACTOR prior to such disclosure. If CONTRACTOR contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Santa Clara County before the COUNTY responds to the CPRA request. If CONTRACTOR fails to obtain such a remedy before the COUNTY responds to the CPRA request, the COUNTY may disclose the requested information.

Article V Insurance Requirements

INSURANCE REQUIREMENTS FOR STANDARD CONTRACTS ABOVE \$100,000

1. INDEMNITY

The Contractor shall defend, indemnify, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss,

injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor is obligated to indemnify, defend and hold harmless the County under this Agreement.

2. **INSURANCE**

Without limiting the Contractor's indemnification obligation, the Contractor shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

a. **Evidence of Coverage**

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by this insurance carrier shall accompany the certificate. In addition, a certified copy of the policy of policies shall be provided by the Contractor upon request.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

b. **Qualifying Insurers**

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A – V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

c. **Notice of Cancellation**

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified County insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the County of Santa Clara or their designated agent.

d. **Insurance Required**

i. **Commercial General Liability Insurance** – for bodily injury (including death) and property damage which provides limits as follows:

1. Each occurrence	\$1,000,000
2. General aggregate	\$2,000,000
3. Products/Completed Operations aggregate	\$2,000,000
4. Personal Injury	\$1,000,000

ii. **General liability coverage shall include:**

1. Premises and Operations
2. Products/Completed
3. Personal Injury liability

4. Severability of interest

- iii. General liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

Additional Insured Endorsement, which shall read:

“County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds.”

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public Entities may also be added to the additional insured endorsement as applicable and the contractor shall be notified by the contracting department of these requirements.

iv. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles.

- v. Aircraft/Watercraft Liability Insurance (Required if Contractor or any of its agents or subcontractors will operate aircraft or watercraft in the scope of this Agreement)

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired aircraft/watercraft.

vi. Workers' Compensation and Employer's Liability Insurance

1. Statutory California Workers' Compensation coverage including broad form all-States coverage.
2. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

e. Special Provisions

The following provisions shall apply to this Agreement:

- i. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance to by the County or its insurance consultant(s) are not intended and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
- ii. The County acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor.

However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial capacity. Contractor's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.

- iii. Should any of the work under this Agreement be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.
 - iv. The County reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.
- f. Fidelity Bonds (Required only if Contractor will be receiving advanced funds or payments):
Before receiving compensation under this Agreement, Contractor will furnish the County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor will notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of County.

*** END ***

Agency: City of Milpitas

Program Name: Senior Nutrition Program – Congregate Meals

1. TERM OF CONTRACT

The term begins on July 1, 2016 and expires on June 30, 2017, unless terminated earlier or otherwise amended.

2. MAXIMUM FINANCIAL OBLIGATION

COUNTY will reimburse CONTRACTOR actual allowable expenditures subject to the provisions of this Contract, not to exceed \$181,117.00 in FY2016-2017

3. BUDGET CONTINGENCY

This Contract is contingent upon the appropriation of sufficient funding by the County for the services covered by this Contract. Notwithstanding the termination provisions set forth herein, if funding is reduced or depleted by the County for services covered by this Contract, the County has the option to either terminate this Contract without notice (except that necessary to transition clients in the discretion of the County) and with no liability occurring to the County, or to offer an amendment to this Contract indicating the reduced amount.

4. COMPENSATION TO CONTRACTOR

Cost Reimbursement

- a. CONTRACTOR will be reimbursed by COUNTY for its actual, reasonable, necessary, and allowable costs incurred up to the maximum compensation, for the performance of services as specified in this Contract. These costs will also be in accordance with current cost principles and with all other requirements of this Contract, including, as applicable, OMB's Uniform Guidance, OMB Circular A-121, and 41 C.F.R. Part 1.
- b. If CONTRACTOR provides any tasks, deliverables, goods, services or other work, other than as specified in this Contract, the same will be deemed to be gratuitous effort on the part of the CONTRACTOR, and the CONTRACTOR will have no claim whatsoever against COUNTY.
 - i. Examples of Unallowable Costs include, but are not limited to: alcoholic beverages; bad debts; donations and contributions; entertainment costs; and goods or services for personal use.
- c. CONTRACTOR must participate in a closeout period at the end of the COUNTY funding period. During this closeout period, all funds awarded to CONTRACTOR must be reconciled with the services actually provided and the remaining cash, if any. A closeout packet will be provided to CONTRACTOR by COUNTY at the end of the funding period and is due within forty-five (45) days thereafter. This provision survives the termination of this Contract.

5. COST REIMURSEMENT CLAIM

CONTRACTOR must submit to COUNTY a cost reimbursement claim in a form approved by COUNTY, by the tenth (10th) working day of each month for the month just preceding in which services were performed.

- a. Prior to submittal, cost reimbursement claims must be certified and signed by a responsible officer of CONTRACTOR with authority to certify that the information submitted by CONTRACTOR is accurate and CONTRACTOR is entitled to payment under the terms of this Contract. COUNTY may rely on said certification in making payment, but this payment will not constitute a waiver of any of COUNTY's legal rights or objections.
- b. If the cost reimbursement claim is in proper form and the items billed are payable under this Contract, COUNTY will make payment to CONTRACTOR within thirty (30) days after receipt of the claim.
- c. COUNTY will not be required to make payment if the amount claimed is not in accordance with the provisions of this Contract. All payments under this Contract will be made directly to CONTRACTOR as a corporate entity. Under no circumstances will COUNTY be required to make payments in any amount pursuant to this Contract to any other parties, including individual employees or creditors of CONTRACTOR.
- d. COUNTY is not obligated to pay the CONTRACTOR for any invoices not reported to COUNTY within sixty (60) calendar days after the end of the last month of the Contract term.

6. ADJUSTMENT TO EXHIBIT B: PROGRAM PLAN AND REQUIREMENTS

A written adjustment to the Program Plan and Requirements may be approved by the COUNTY Representative, or designee, identified in this Exhibit, without a contract amendment as long as the adjustment reflects approved original program provisions and both parties are notified at least 10 days before the adjusted Program Plan and Requirements begins. Adjustments are intended to clarify the services and activities specified in the Contract and are not formal Contract Amendments, as long as the adjustments do not modify the total contract amount. CONTRACTOR will submit sufficient written documentation to COUNTY that clearly explains the requested adjustment(s), the reason for the adjustment(s), and how the adjustment(s) will impact service delivery to the clients. Adjustments will be approved, in writing by COUNTY's designated representative or designee, and the CONTRACTOR's representative or designee.

7. ADJUSTMENT TO EXHIBIT C: BUDGET SUMMARY

A budget summary adjustment can be made without a contract amendment if Contractor submits a written budget summary adjustment request to the COUNTY Contract Representative, or designee, and the request is approved by the COUNTY in writing. A budget summary adjustment must not increase the maximum financial obligation of this Contract.

8. SERVICE PROVIDED

- a. CONTRACTOR must inform COUNTY of services and activities performed under

this Contract and accept appropriately referred clients from the COUNTY for contract services as part of CONTRACTOR's client base.

- b. CONTRACTOR must coordinate services with other organizations providing similar services in order to foster community cooperation and avoid unnecessary duplication of services.

9. CONTRACT REPRESENTATIVES

- a. CONTRACTOR designates City Manager as CONTRACTOR's representative for the purpose of performing the services as required by this Contract. Unless otherwise indicated in writing, the above named person has the primary authority and responsibility to carry out this Contract.
- b. COUNTY designates the Director of Social Services Agency, or designee, as its representative for the purpose of managing the services performed pursuant to this Contract.

10. NOTICES

All notices prescribed by this Contract will be in writing and deemed effective if sent by certified mail or registered mail and properly deposited with the United States Postal Service, postage prepaid with return receipt requested and addressed as follows:

- a. To COUNTY:
Social Services Agency
Robert Menicocci, Director
333 West Julian Street
San Jose, California 95110-2335
- b. To CONTRACTOR:
City of Milpitas
Thomas Williams, City Manager
455 East Calaveras Blvd.
Milpitas, CA 95035

11. COUNTY'S CONTRACT TRANSITION PROCESS

CONTRACTOR agrees to provide all information deemed necessary by the County for use in subsequent procurement cycles.

Agency: City of Milpitas

Program Name: Senior Nutrition Program – Congregate Meals

1. SERVICE DESCRIPTION AND EXPECTED OUTCOME

City of Milpitas (CONTRACTOR) will work with the Social Services Agency – Senior Nutrition Program (COUNTY) and other community partners to ensure that the seniors receive nutritious and healthy meals at CONTRACTOR's nutrition site. The Senior Nutrition Program – Congregate Meals (Congregate Meals Program) provides seniors and older adults of Santa Clara County access to healthy, nutritious meals and the opportunity to socialize, take classes, and access other services.

2. ELIGIBLE INDIVIDUALS AND TARGET POPULATION

Persons who are eligible for meals and services under this contract are those persons who are 60 years of age or older or who are spouses of persons who are 60 years of age or older. Meals may be made available to handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided, or individuals with disabilities who reside at home with and accompany older individuals who are eligible for services. Priority will be given to those older persons in greatest social and economic need with particular attention to seniors who are age 75 or older, low-income, living alone, and/or minorities as defined by the Older Americans Act of 1965.

3. NUMBER OF MEALS

- a. CONTRACTOR will provide the number of hot meals as specified in Exhibit C: Budget Summary. If demand by eligible individuals in the first six (6) months of this Contract does not require CONTRACTOR to provide the average number of meals per day as specified in Exhibit C: Budget Summary, COUNTY may terminate this Contract. Prior to termination, COUNTY and CONTRACTOR may attempt to renegotiate this Contract in order to allow CONTRACTOR to reduce the average number of meals to be provided per day. If CONTRACTOR provides additional meals and such additional meals will cause CONTRACTOR to exceed the Maximum Financial Obligation of this Contract, such additional costs will be the sole expense of CONTRACTOR, unless the parties agree and execute a Contract Amendment.
- b. The average number of meals which CONTRACTOR has agreed herein to provide per day will be provided five (5) days per week during the term of this Contract unless otherwise specified in Exhibit C: Budget Summary and except for holidays to be set forth on a holiday plan submitted by CONTRACTOR.

4. MEALS

- a. Meals served by CONTRACTOR must provide at least one-third ($1/3^{\text{rd}}$) of the current recommended dietary allowance specified by the Food and Nutrition Board of the National Academy of Sciences – National Research Council.
- b. Menus will be planned by CONTRACTOR in cycles, the minimum period being four (4) weeks. Such menus must be planned in accordance with COUNTY requirements. Such menus will be submitted to COUNTY three (3) weeks prior to initial use. Menus will be posted in a conspicuous location at the meal site at least one (1) week in advance of use.

- c. Table settings will be of reasonable quality. If disposable dinnerware is used, it will be of sturdy quality.

5. CONGREGATE MEAL SITE

- a. CONTRACTOR will provide congregate meals at the following meal sites:

Barbara Lee Senior Center – 40 N. Milpitas Blvd. Milpitas, CA 95035

- b. CONTRACTOR may not relocate the meal site or add a meal site without prior notification, inspection, and approval by COUNTY. Relocation or addition of a meal site without the prior approval of the COUNTY may be considered a breach of the provisions of this Contract. COUNTY may suspend or withhold payments, or terminate this Contract if the relocation affects any of the provisions of this Contract including, but not limited to the following:
 - i. The relocation or addition reduces or terminates the provision of services to seniors in the geographic area served by this Contract.
 - ii. The relocation or addition changes the service area served by this Contract.
 - iii. The relocation or addition does not serve or give priority to older persons in the greatest social or economic need as defined by the Older Americans of 1965.
- c. The site must have adequate lighting and ventilation and must meet all applicable health, fire, safety, and sanitation regulations. CONTRACTOR must obtain current certificates from appropriate public officials indicating the site is in compliance with health and fire regulations.
- d. CONTRACTOR ensures that a pleasant dining atmosphere is maintained and that there is adequate space for the equipment of participants, such as canes, crutches, and wheelchairs.
- e. There must not be any architectural barriers which would prevent an eligible individual from having access to the meal site facility.

6. VOLUNTEER, GUEST, AND STAFF MEALS

- a. Volunteer Meal: A volunteer under the age of 60 who provides services during meal hours may be offered a meal, if doing so will not deprive an older individual of a meal. Volunteers under age 60 who receive a full meal that meets 1/3rd RDA must pay a \$3.00 fee. CONTRACTOR must record the number of volunteer meals served.
- b. Guest Meal: A guest under the age of 60 may be offered a meal during meal hours if doing so will not deprive an older individual of a meal. A guest must pay a \$8.00 fee. CONTRACTOR must record the number of guest meals served.
- c. Staff Meal: Nutrition services staff under the age of 60 may receive a meal if doing so will not deprive an older individual of a meal or add to the cost of meals prepared. Nutrition services staff must pay a \$3.00 fee. CONTRACTOR must record the number of nutrition services staff meals served.

7. PROJECT COUNCIL

CONTRACTOR will ensure that an election is held to elect a participant to represent the nutrition site on the countywide Project Council. It will be the responsibility of the Project Council to advise the COUNTY on policy matters relating to the delivery of the congregate nutrition services throughout the COUNTY program area.

8. SUPPORTIVE SERVICES

- a. CONTRACTOR will provide supportive services, to the extent that such services are needed and are not already available from third parties and accessible to individuals participating in the Congregate Meals Program. Supportive services may include:
- i. Transportation of eligible individuals to and from congregate meal sites so that nutrition and other services will be accessible to those eligible individuals living within the program area who, because of lack of mobility or physical or mental handicap, would otherwise be unable to participate in the program;
 - ii. Information and referral services designed to provide eligible individuals with current information of, and referral to, all appropriate services to meet their needs;
 - iii. Health and welfare counseling services designed to assist eligible individuals in dealing with the problems and stresses that interfere with normal health and social functioning. CONTRACTOR may provide such services through person-to-person assistance from trained counselors or referrals to other resources;
 - iv. Nutrition education through a formal program of regularly scheduled meetings to make available pertinent facts related to nutritional need;
 - v. Recreation activities designed to foster the health and social well-being of program participants through social interaction and satisfying use of free time;
 - vi. Outreach activities to assure maximum participation of hard to reach and other eligible individuals.

9. FOOD INVENTORY

CONTRACTOR will develop a written plan for conducting food inventories. The plan will include the procedures for conducting food inventories, identifying persons responsible for conducting the inventory, and setting the schedule for completing the inventories. The plan will also include a description of the "First-in-First Out" food rotation system that will be used to ensure stored goods are rotated to prevent deterioration. CONTRACTOR will provide COUNTY with a copy of its food inventory plan and completed food inventories, upon request.

10. DATA COLLECTION

- a. At intervals prescribed by the COUNTY and, on forms provided by COUNTY, CONTRACTOR will collect program data and information relating to nutrition health screening, registered site participants, meals, use of services and program contributions. CONTRACTOR will also be required to collect program data through the use of electronic collection methods. Such methods may include the use of computers, scanners, or other means. CONTRACTOR must comply with collection requirements as directed by COUNTY. Unless otherwise specified, COUNTY will provide CONTRACTOR with the equipment needed to collect data by electronic means. COUNTY will be considered legal owner of all equipment provided to CONTRACTOR for this purpose. Such equipment is considered Non-Expendable property as described in Section 11 of this Exhibit.
- b. CONTRACTOR must submit a completed and signed Santa Clara Senior Nutrition Program – Monthly Report for the prior month by the fourth (4th) working day of the current month to their assigned registered dietitian.

- c. CONTRACTOR must submit their electronic participant demographic scanner data and related documents for the prior month by the fifth (5th) working day of the current month to the Senior Nutrition Program.

11. PARTICIPANT CONTRIBUTION PRINCIPLES

- a. CONTRACTOR will provide meals to eligible individuals regardless of their ability to pay for all or part of their meals. Recipients are requested to make a financial contribution to offset the cost of the meals. Suggested contribution for congregate meals is \$3.00 per meal. CONTRACTOR will not disclose records of the amount of contribution received or the name of contributor to third parties without written permission of the contributor. COUNTY has the right to review CONTRACTOR's contribution methods and records for audit purposes. Payment of the suggested contribution is not a condition for the receipt of meals.
- b. CONTRACTOR will submit participant contributions on a monthly basis to be included with the monthly expense claims. Fifty percent of such contributions are to be submitted to COUNTY as specified Exhibit C: Budget Summary.

12. PURCHASES

COUNTY may require CONTRACTOR, by written notice, to obtain approval of COUNTY for all purchases of food and materials. Approval will not be withheld by COUNTY except for good cause.

13. NON-EXPENDABLE PROPERTY

Any acquisition by CONTRACTOR of non-expendable property with a retail purchase price in excess of five-hundred dollars (\$500.00), that is required by CONTRACTOR for performance of this Contract, must require prior written approval of COUNTY. COUNTY will be the legal owner of all equipment that is purchased with COUNTY funds. COUNTY may take possession of its equipment if it is not being used primarily for program purposes and will determine disposition of that equipment upon expiration or termination of this contract.

14. COMPETITIVE BID REQUIREMENTS

- a. All subcontracts entered into by the CONTRACTOR for capital equipment purchase exceeding the amount of five-hundred dollars (\$500.00) will be only by competitive bids in compliance with Sourcewise bidding procedures except when services or materials can be obtained only from a single source. Any procurement exceeding ten-thousand dollars (\$10,000.00) will also comply with the requirements of Office of Management and Budget Circular Uniform Guidance.
- b. Prior to entering into any such subcontract which has a value of five-hundred dollars (\$500) or more, CONTRACTOR will submit to COUNTY evidence that it has received a minimum of three (3) bids for such subcontract and justification for selection of the successful bidder or documentation to support the use of the sole supplier. Record will be maintained by CONTRACTOR showing the parties solicited and the bids submitted.

15. OVERTIME WORK

Overtime work expenditures that are incurred by CONTRACTOR will not be paid by reducing services or meals under this Contract.

16. RESTRICTION OF DISCLOSURES

Any reports, analysis, studies, drawings, information, or data generated as a result of this Contract are to be provided to COUNTY prior to public dissemination.

17. CARE ACCESS ERROR RATE REQUIREMENT

Federal regulations pursuant to Title III of the Older Americans Act of 1965 (OAA) establish procedures for allocating money to states for various senior services. States have established allocation mechanisms to award monies to their Area Agencies on Aging (AAA). These AAAs in turn, award monies via contracts or grants to carry out the mission of the OAA.

Sourcewise, the County of Santa Clara's designated AAA, allocates money for the provision of the Congregate Meals Program by reimbursing the County based on the number of meals served seniors each month. This data is tracked through Sourcewise's Care Access Database. When there is a discrepancy between the paper total (signatures of SNP participants) and scanner total (scanned barcodes of SNP participants), an error rate arises. Currently, if the total combined error rate of all Senior Nutrition Meal Sites exceeds five percent (5%), the County will not be reimbursed by Sourcewise. Therefore, CONTRACTOR's data that is imported into Sourcewise's Care Access Database must **not** exceed an error rate of 5%.

If CONTRACTOR's imported data exceeds an error rate of 5%, COUNTY will withhold a percentage of CONTRACTOR's invoice equivalent to the percentage of the error rate exceeding the 5% threshold. For example, if CONTRACTOR has an error rate of 23%, COUNTY will withhold 18% (23% - 5%) of CONTRACTOR's invoice for that month.

Should Sourcewise decide to reimburse the County regardless of the combined error rate of all Senior Nutrition Meal Sites, then the County will not withhold any percentage of CONTRACTOR's invoice regardless of CONTRACTOR's error rate for that month.

18. SERVING DAYS REQUIREMENTS

Withholding circumstances out of CONTRACTOR's control, CONTRACTOR must open their Nutrition Site(s) for the number of service days specified in Exhibit C: Budget Summary. Should CONTRACTOR close their Nutrition Site(s) due to unforeseen circumstances, CONTRACTOR will notify COUNTY immediately and work collaboratively to reschedule the day(s) that the Nutrition Site(s) was closed.

Should CONTRACTOR close their Nutrition Site(s) due to foreseen circumstances and not be able to reschedule the day(s) of services, CONTRACTOR will not be reimbursed for the number of meals allocated to the serving day(s) that the Nutrition Site(s) was closed.

19. FISCAL YEAR CLOSEOUT SUBMISSION

Due to fiscal reporting deadlines imposed by the California Department of Aging and the County of Santa Clara's Area Agency on Aging, CONTRACTOR must submit requested fiscal year-end closeout documents to COUNTY accounting staff by July 10, 2017.

**Santa Clara County- Social Services Agency
Senior Nutrition Program
City of Milpitas
Proposed Budget - FY 16/17**

Asian (2 Days)	105	*	96	10,080
Bateman (3 Days)	73	*	153	11,169
Additional Bateman	10	*	96	960
Number of Meals			249	22,209
	Daily		Service Days	Annual Meals
<u>Service Days M-F</u>				

1. PERSONNEL

Site Manager		\$	29,556	
Kitchen Aide		\$	15,361	
Janitor		\$	6,080	\$ 50,996

2. OPERATION COSTS

Overhead	@ Flat Rate	\$	2,388	\$ 2,388
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3. VARIANCE

Fiscal	N/A	\$	-	
Staff Mileage	@ \$.555/mile	\$	100	
Equipment & Repair		\$	200	
Non-Food Items	@ \$.262/meal	\$	5,819	\$ 6,119

4. FOOD COSTS

Bateman Catered	@ \$5.072/meal	\$	61,515	
Tastee	@ \$5.030/meal	\$	50,702	\$ 112,217

5. TOTAL PROGRAM BUDGET

Total Program Cost (Not Including Usage Costs)		\$	171,720
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6. CONTRACT AMOUNT

Total Program Cost		\$	171,720
City of Milpitas Contribution (50%)		\$	85,860
County of Santa Clara Contribution (50%) - Contract Amount		\$	85,860

**Fifty Percent of Participant Contributions retained by Milpitas*

Unit Cost	\$ 7.73
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[Summary Sheet](#)

Santa Clara County- Social Services Agency
Senior Nutrition Program
City of Milpitas
Proposed Budget - FY 16/17

Personnel Detail

	Hours	Days	Hourly	Earnings	Fringe	Vacation	Sick Leave	Medical	Total
Site Manager	6.00	260	14.16	22,089.60	2,395.87	849.60	1,019.52	3,201.00	29,555.59
Kitchen Aide	4.00	260	9.80	10,192.00	1,105.44	392.00	470.40	3,201.00	15,360.84
Janitor	2.00	260	9.80	5,096.00	552.72	196.00	235.20		6,079.92
Total Personnel Costs				37,377.60	4,054.03	1,437.60	1,725.12	6,402.00	50,996.35

Formula

Days 249 + 11 Holidays

Earning: Hours x Days x Hourly Rate

Fringe 10% of (Earnings+Vacation+Sick Leave)

Vacation Hours x 10 x Hourly Rate

Sick Leave Hours x 12 x Hourly Rate

FY16/17 COLA Calculation

FY15/16 Contract Amount	\$	175,841.98
COLA (3.00%)	\$	5,275.26
FY16/17 Baseline	\$	181,117.24

Amount to Add to Contract

FY16/17 Baseline	\$	181,117.24
Current	\$	171,720.40
Amount to Add	\$	9,396.84

Anticipated Catered Cost Per Meal

Bateman Increase (3.00%)	\$	5.072
Tastee Price	\$	5.030